

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,
Defendants.

6:69cv07941-BB

RIO CHAMA STREAM SYSTEM

**NOTICE AND SUGGESTION FOR PROCEDURE FOR APPOINTMENT
OF SPECIAL MASTER**

The Plaintiff State of New Mexico on the relation of the State Engineer (“State”) respectfully files this *Notice and Suggestion for Procedure for Appointment of Special Master*. On June 8, 2011, the Court filed its *Order* (Doc. No. 10155) announcing the resignation of Special Master Gabin as Special Master in this case effective June 30, 2011. The Court requested that any parties that wish to suggest a candidate for the position file a notice indicating that they intend to suggest a candidate.

The State appreciates the Court’s invitation to the parties to suggest candidates for the position pursuant to Fed. R. Civ. P. 53(b)(1). The State, however, would like to request that rather than only allow the parties to separately suggest candidates, that the Court allow the parties to participate in a collective process to identify, interview and make recommendations concerning Special Master candidates. We believe that the opportunity afforded to the parties in the Aamodt adjudication (State of New Mexico et al v. Aamodt et al, U.S.D.C. No. 66-cv-6639 MV), led to the successful identification and appointment of a special master with the requisite

expertise, within the financial constraints of the parties.

In that case, the Court permitted the parties to recommend candidates, participate in the interview process and make post-interview recommendations to the Court. *See* July 5, 2006 *Order* (Doc. No. 6175) in Aamodt, 66-cv-6639. A subcommittee of the settlement parties in that case (the “Special Master Search Subcommittee of the Mediation Parties”) was formed to expedite review of applications and conduct interviews of prospective candidates. The subcommittee placed an advertisement for the position, with the specific duties identified by the parties and the Court, in bar journals for New Mexico, Colorado, and Arizona. After reviewing the applications, the subcommittee conducted telephonic interviews, and selected candidates for a second, in-person interview with the settlement parties, who ultimately selected a candidate for recommendation to the Court. *See Joint Motion for Extension of Time to Complete Special Master Search and Develop Recommendations to the Court*, September 4, 2007 (Doc. No. 6252); *Motion for Extension of Time to Complete Special Master Search and Develop Recommendations to the Court*, November 2, 2007 (Doc. No. 6264); *Order Setting Status Conference*, December 10, 2007 (Doc. No. 6275) in Aamodt, 66-cv-6639. The settlement parties also submitted a proposed Order of Reference to the Court, describing the specific duties of the Special Master. *Id.* The Court then allowed any other parties to file objections to the settlement parties’ recommended candidate. *See* December 19, 2007 *Order* (Doc. No. 6283) in Aamodt, 66-cv-6639.

The State respectfully requests that the Court adopt a similar process for this case, as well. Rather than simply accept suggestions for a candidate, the State proposes that the Court form a committee of parties to advertise, review applications, conduct interviews, draft a proposed Order of Reference, and recommend a candidate(s) to the Court. If the Court does not

accept this suggestion, the State does intend to suggest a candidate.

Counsel for the United States of America, Brad Bridgewater; for the Jicarilla Apache Nation, Herb Becker; for Section 2 (La Asociacion de las Acequias del Rio Vallecitos, Tusas y Ojo Caliente), Section 4 (El Rito Ditch Association) and Section 5 (Gallina-Capulin Acequia Association) acequias, Mary Humphrey; and for Section 7 acequias (Acequias Nortenas), John Utton, concur with the proposal set forth in this *Notice and Suggestion*. Counsel for the Section 1 acequias (Rio Chama Acequia Association), Fred Waltz, was unable to address the State's proposed *Notice and Suggestion* within the timeframe for review given by the State and therefore takes no position. Counsel for the other parties in this case did not respond within the time frame provided, but no responses indicating opposition were received.

Respectfully submitted,

/s/ Arianne Singer
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of June, 2011 I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Arianne Singer